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# PRELIMINARY DRAFT

## No. 3414

PREPARED BY  
LEGISLATIVE SERVICES AGENCY  
2013 GENERAL ASSEMBLY

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### DIGEST

**Citations Affected:** IC 6-3.1-34; IC 12-17.2-2-14.

**Synopsis:** Tax credits for quality child care. Establishes "paths to quality" tax credits for certain child care facilities that provide quality child care and for individual taxpayers whose dependent children attend those facilities. Provides specifically that an individual is entitled to a refundable income tax credit for each dependent child of the individual attending a child care facility that voluntarily participates in the paths to quality rating system (qualified child care facility) that has a quality rating of level 2 or higher. Provides that a taxpayer is entitled to a refundable income tax credit for certain eligible business and employer child care expenses. Provides that a qualified child care facility is entitled to a refundable income tax credit for providing child care services to a child participating in the child care and development fund program, or if the child is in foster care. Provides that the amount of the credit is calculated based on the quality rating of the qualified child care facility and the monthly average number of children who participate in the child care and development fund program and attend the qualified child care facility. Requires the division of family resources to adopt rules to administer the "paths to quality" rating system.

**Effective:** Upon passage; January 1, 2014.



A BILL FOR AN ACT to amend the Indiana Code concerning  
taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE  
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
JANUARY 1, 2014]:

**Chapter 34. Paths to Quality Tax Credits**

**Sec. 1. As used in this chapter, "child care facility" means a:**

- (1) child care center licensed under IC 12-17.2-4;**
- (2) child care home licensed under IC 12-17.2-5; or**
- (3) child care ministry licensed under IC 12-17.2-6.**

**Sec. 2. As used in this chapter, "dependent child" means a child  
less than six (6) years of age who:**

- (1) qualifies as a dependent of a taxpayer (as defined in  
Section 152 of the Internal Revenue Code); and**
- (2) is the natural or adopted child of the taxpayer or, if  
custody of the child has been awarded in a court proceeding  
to someone other than the mother or father, the court  
appointed guardian or custodian of the child.**

**If the parents of a child are divorced, the term refers to the parent  
who is eligible to take the exemption for the child under Section  
151 of the Internal Revenue Code.**

**Sec. 3. As used in this chapter, "division" refers to the division  
of family resources established under IC 12-13-1-1.**

**Sec. 4. As used in this chapter, "eligible business or employer  
child care expense" has the meaning set forth in section 14 of this  
chapter.**

**Sec. 5. As used in this chapter, "pass through entity" means a:**

- (1) corporation that is exempt from the adjusted gross income  
tax under IC 6-3-2-2.8(2);**
- (2) partnership;**
- (3) trust;**
- (4) limited liability company; or**
- (5) limited liability partnership.**



1       **Sec. 6. As used in this chapter, "paths to quality program" has**  
 2       **the meaning set forth in IC 12-17.2-2-14.**

3       **Sec. 7. As used in this chapter, "qualified child care facility"**  
 4       **means a child care facility that voluntarily participates in the paths**  
 5       **to quality program.**

6       **Sec. 8. As used in this chapter, "qualified dependent child"**  
 7       **means a dependent child who attends a qualified child care facility**  
 8       **that receives a level 2 through level 4 quality rating.**

9       **Sec. 9. As used in this chapter, "quality rating" means the level**  
 10       **number awarded to a qualified child care facility under the quality**  
 11       **rating system.**

12       **Sec. 10. As used in this chapter, "quality rating system" means**  
 13       **the quality rating system established by the division under**  
 14       **IC 12-17.2-2-14(c).**

15       **Sec. 11. As used in this chapter, "state tax liability" means a**  
 16       **taxpayer's total tax liability that is incurred under:**

17               **(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);**

18               **(2) IC 27-1-18-2 (the insurance premiums tax); and**

19               **(3) IC 6-5.5 (the financial institutions tax);**

20       **as computed after the application of the credits that under**  
 21       **IC 6-3.1-1-2 are to be applied before the credits provided in this**  
 22       **chapter.**

23       **Sec. 12. As used in this chapter, "taxpayer" means an**  
 24       **individual, a corporation, a partnership, or other entity that has**  
 25       **state tax liability.**

26       **Sec. 13. (a) Each taxable year, a taxpayer is entitled to credit**  
 27       **against the taxpayer's state tax liability for each qualified**  
 28       **dependent child of the taxpayer who regularly attends a qualified**  
 29       **child care facility, if the qualified child care facility has a quality**  
 30       **rating of level 2, level 3, or level 4. If the amount of the credit**  
 31       **provided by this section to a taxpayer during a particular taxable**  
 32       **year exceeds the sum of the taxes imposed on the taxpayer under**  
 33       **IC 6-3 for the taxable year after the application of all credits that**  
 34       **under IC 6-3.1-1-2 are to be applied before the credit provided by**  
 35       **this chapter, the excess shall be returned to the qualifying taxpayer**  
 36       **as a refund.**

37       **(b) Subject to section 18 of this chapter, the amount of the credit**  
 38       **to which a taxpayer is entitled for each qualified dependent child**  
 39       **for a taxable year equals the following amounts:**

40               **(1) If the qualified dependent child attends a qualified child**  
 41               **care facility with a quality rating of level 4, four hundred**  
 42               **dollars (\$400).**

43               **(2) If the qualified dependent child attends a qualified child**  
 44               **care facility with a quality rating of level 3, three hundred**  
 45               **dollars (\$300).**

46               **(3) If the qualified dependent child attends a qualified child**



care facility with a quality rating of level 2, two hundred dollars (\$200).

Sec. 14. (a) As used in this section, an "eligible business or employer child care expense" includes expenses and payments, not to exceed fifty thousand dollars (\$50,000), for the:

- (1) construction, renovation, or expansion of a qualified child care facility;
- (2) purchase of equipment for a qualified child care facility;
- (3) maintenance and operation expenses of a qualified child care facility; and
- (4) payments, not to exceed five thousand dollars (\$5,000) for each child, made by an employer to a qualified child care facility for the child care expenses of a qualified dependent child of an employee of the employer.

(b) A taxpayer that pays an eligible business or employer child care expense during a taxable year with respect to a qualified child care facility with a quality rating of level 2, level 3, or level 4 is entitled to a credit against the taxpayer's state tax liability for the taxable year in an amount determined under subsection (c).

(c) Subject to section 18 of this chapter, the maximum amount of a credit under this section for a taxpayer in a taxable year equals the product of the taxpayer's eligible business and employer child care expenses for the taxable year, multiplied by the following applicable percentage:

- (1) If the eligible business and employer child care expenses were paid with respect to a qualified child care center with a quality rating of level 4, twenty percent (20%).
- (2) If the eligible business and employer child care expenses were paid with respect to a qualified child care center with a quality rating of level 3, fifteen percent (15%).
- (3) If the eligible business and employer child care expenses were paid with respect to a qualified child care center with a quality rating of level 2, ten percent (10%).

Sec. 15. (a) A qualified child care facility is entitled to a credit against the qualified child care facility's state tax liability for a taxable year if the qualified child care facility has a quality rating of level 2, level 3, or level 4, and provides child care services to a child less than six (6) years of age who participates in the federal Child Care and Development Fund program administered under 45 CFR 98, as in effect January 1, 2013, during the taxable year.

(b) Subject to section 18 of this chapter, the credit that a qualified child care facility is entitled to under this section equals the amount determined in STEP FOUR of the following formula:

STEP ONE: Determine, for each month of the taxable year, the number of children who participate in the federal Child Care and Development Fund program administered under 45



CFR 98, as in effect January 1, 2013, and attend the qualified child care facility during the month.

STEP TWO: Add the amounts determined under STEP ONE for each month of the taxable year.

STEP THREE: Divide the STEP TWO amount by twelve (12).

STEP FOUR: Multiply the STEP THREE amount by the following:

(A) If the qualified child care facility has a quality rating of level 4, one thousand five hundred dollars (\$1,500).

(B) If the qualified child care facility has a quality rating of level 3, one thousand two hundred and fifty dollars (\$1,250).

(C) If the qualified child care facility has a quality rating of level 2, one thousand dollars (\$1,000).

Sec. 16. (a) This section applies to a tax credit provided under section 14 or 15 of this chapter. If the amount of a credit determined under section 14 or 15 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state liability for the taxable year, the taxpayer may:

(1) request from the department a refund of any unused credit; or

(2) carry over the excess to the immediately following taxable years.

The amount of any carryover under subdivision (2) is reduced to the extent that the taxpayer uses the carryover to obtain a credit under this chapter for a subsequent taxable year.

(b) A taxpayer may not carry back any unused credit.

Sec. 17. If a pass through entity is entitled to a credit under this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, a partner, or a member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 18. (a) This section applies if the quality ratings of a qualified child care center on which a credit provided under section 13, 14, or 15 of this chapter is calculated change during the taxable year in which the credit is claimed. If a qualified child care facility receives two (2) or more different quality ratings during a taxpayer's taxable year, the credit to which the taxpayer is entitled shall be prorated using the following formula based on the number of months during the taxpayer's taxable year that the qualified child care facility maintains a particular quality rating:

STEP ONE: For each quality rating level received by a



qualified child care facility during the taxable year, determine the applicable tax credit amount awarded for the particular quality rating level.

**STEP TWO:** Divide the STEP ONE amount for each rating level received by the qualified child care facility during the taxable year by twelve (12).

**STEP THREE:** Multiply the STEP TWO amount for each quality rating level received by the qualified child care facility during the taxable year by the number of months during the taxable year that the qualified child care facility maintained the particular quality rating. The result must be rounded to the nearest one-hundredth (0.01).

**STEP FOUR:** Add the STEP THREE amounts.

(b) The quality rating for a qualified child care facility for the month a qualified child care facility quality rating changes is the lower quality rating maintained by the qualified child care facility during that month.

**Sec. 19.** Not later than January 15 of each year, the division shall send a letter to each qualified child care facility certifying the quality rating awarded to the qualified child care facility for each month during the previous calendar year.

**Sec. 20.** To receive a credit under this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines necessary to validate eligibility and calculate each credit provided under this chapter.

**Sec. 21.** The division, with the advice of the department, shall adopt rules under IC 4-22-2 to administer this chapter.

SECTION 2. IC 12-17.2-2-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14. (a)** As used in this section, "program" refers to the paths to quality program established by subsection (b).

(b) The paths to quality program is established. The program is a voluntary child care facility quality rating and improvement system implemented by the division in partnership with the following:

- (1) Indiana Association for the Education of Young Children.
- (2) Indiana Association for Child Care Resource and Referral.
- (3) Indiana Head Start Collaboration Office.
- (4) Indiana Department of Education.
- (5) Early Childhood Alliance.
- (6) 4 C's of Southern Indiana.

(c) The program uses four (4) levels at which a child care facility participating in the program may be rated, with "level 4"



1 indicating the highest level of quality child care.

2 (d) The division shall adopt rules under IC 4-22-2 to administer  
3 the paths to quality rating system. The rules must include  
4 procedures that outline eligibility and application procedures for  
5 the program, the establishment of procedures relating to the rating  
6 process, and the establishment or alteration of standards used in  
7 the rating process.

8 (e) The division shall adopt rules under IC 4-22-2 to establish  
9 the steering council of the program to make recommendations to  
10 the division on program issues and resources. Rules adopted under  
11 this subsection must require that council members be appointed  
12 from partner organizations that assist in the implementation of the  
13 program and serve to coordinate the project plan.

14 SECTION 3. An emergency is declared for this act.

